



**FBS
Leasing**

0100824059

First Bank Place
601 Second Avenue South
Minneapolis, MN 55402-4302
612 973-0939

19676
OCT 21 1995 2:00 PM

October 11, 1995

Mildred Lee
Interstate Commerce Commission
12th Street and Constitution Avenue NW
Washington, DC 20423

Dear Ms. Lee:

Enclosed please find two (2) original Lease Agreements with their respective Rental Agreements for filing and recordation with the Interstate Commerce Commission. Also, enclosed is a check for \$16.00 to cover the recordation fee. The name of the parties to the enclosed documents are **Hunting Elevator Company at 111 North Main Street - Austin, MN 55912** as Lessee and **FBS Business Finance Corporation at 601 2nd Avenue South - Minneapolis, MN 55402**. Please return the stamped original of the Lease Agreement and Rental Agreement to my attention:

Jacqueline Barragan
FBS Business Finance Corporation
P.O. Box 1540
Minneapolis, MN 55480

If you have any questions, please give me a call at 612-973-1145.

Sincerely,

Jacqueline Barragan
Commercial Assistant

/jb
enclosure

RECEIVED
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Interstate Commerce Commission
Washington, D.C. 20423-0001

10/23/95

Office Of The Secretary

Jacqueline Barragan
Commercial Assistant
FBS LEASING
First Bank Place
601 Second Avenue South
Minneapolis, MN 55402/4302

Dear

Madam:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 10/23/95 at 2:50PM, and assigned recordation number(s). 19376.

Sincerely yours.

Vernon A. Williams
Secretary

Enclosure(s)

(0100824039)

\$ 21.00 The amount indicated at the left has been received in payment of a fee in connection with document filed on the date shown. This receipt is issued for the amount paid and in no way indicates acknowledgment that the fee paid is correct. This is accepted subject to review of the document which has been assigned the transaction number corresponding to the one typed on this receipt. In the event of an error or any questions concerning this fee, you will receive a notification after the Commission has had a opportunity to examine your document.

Signature



FBS Leasing
Member First Bank System

LEASE AGREEMENT

19676

1995 2 01 PM

For and in consideration of the mutual covenants and promises hereinafter set forth, FBS BUSINESS FINANCE CORPORATION ("Lessor") and the individual, company or other legal person identified on the signature page of this Lease as the lessee ("Lessee") hereby agrees as follows:

1. LEASE.

Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, all machinery, equipment, motor vehicles and other property described in any schedule or schedules executed by the parties, concurrently herewith or hereafter, which schedules state they are subject to this Lease (collectively, the "Schedules"). All machinery, equipment, motor vehicles and other property described in any Schedule and all replacement parts, additions, repairs and accessories incorporated in, or attached or affixed to, any such property, is collectively referred to in this Lease as the "Equipment".

2. TERM OF LEASE.

This Lease shall commence on the date it is executed and, unless sooner terminated by Lessor as provided in Section 22, shall continue until the "Total Number of Rent Payments" shown on each Schedule shall have been made.

3. RENT.

As rent for the Equipment described on each Schedule, Lessee agrees to pay to Lessor the sum of (x) the rent payments shown under "Rent Payment" on that Schedule, multiplied by the "Total Number of Rent Payments" shown on that Schedule, plus (y) any additional rent specified on that Schedule, plus (z) "Stub Rent" amounts payable with respect to the period between the date of any payment by Lessor to the vendor of the Equipment and the first Rent Payment Due Date shown on that Schedule. Payments are to be made on each and every Rent Payment Due Date shown on the Schedule until the Total Number of Rent Payments have been made. The first rent payment with respect to each Schedule is due upon (i) Lessee's execution of a delivery receipt, if the Equipment described in that Schedule is motor vehicles, or (ii), upon Lessee's acceptance (as described in Section 9) of any Equipment other than motor vehicles described in that Schedule. Rent shall be paid on the dates specified in the Schedule at the office of Lessor or to such other person or at such other place as Lessor may from time to time designate in writing. In addition to the rent payments described above, Lessee shall pay the amount of any personal property taxes or other taxes and all maintenance, insurance and other costs and expenses with respect to the Equipment (including amounts, if any, required to be paid under Sections 14 and 15 of this Lease). The payments described in the previous sentence shall be paid when due to the person entitled to those payments. If Lessee fails to make any such payment or pay any other expense required to be paid by Lessee pursuant to this Lease, Lessor, at its option, may pay such expense, which shall constitute additional rent and be due and payable from Lessee to Lessor upon demand therefor.

4. LATE CHARGE.

If Lessor does not receive any rent or any other sum required to be paid to Lessor within ten (10) days after its due date, Lessee shall pay to Lessor a late charge of five percent (5%) of such late payment.

5. ESTIMATED COST.

The rent payments specified in each Schedule have been computed on the basis of the total cost of the Equipment to Lessor, as estimated at the time that Schedule is executed. Total cost includes the cost to Lessor of purchasing and delivering the Equipment to Lessee, transportation, installation, and all other charges with respect to the Equipment. Lessee hereby authorizes Lessor to correct the rent payments to reflect any difference between the actual cost of the Equipment and the estimated cost.

6. SECURITY DEPOSIT.

Lessee has deposited or will deposit with Lessor the sum shown as "Security Deposit", if any, on each Schedule as a security deposit and not as advance rent. Lessor may, at its option, apply any security deposit to cure any default under this lease by Lessee, in which event Lessee shall promptly pay a sufficient amount to Lessor to restore the security deposit to the full amount specified in the Schedule. Upon termination of this Lease, Lessor shall return any remaining balance of the security deposit(s), if any, to Lessee if and only if Lessee has fulfilled all of its obligations under this Lease.

7. SELECTION OF EQUIPMENT AND SUPPLIER.

Lessee has selected the Equipment and the supplier of the Equipment. Lessor agrees to order the Equipment from the supplier in accordance with Lessor's customary practices, and Lessor shall not be obligated to lease the Equipment to Lessee unless the supplier fills the order. Lessor shall have no liability because of any delay by the supplier in filling the order. Lessee will accept the Equipment if delivered in good repair and authorizes Lessor to add to the Schedules any serial numbers or other identification of the Equipment when known. Any delay in the delivery of the Equipment will not affect the validity of this Lease.

8. WARRANTIES.

LESSOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO THE CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF, THE ABSENCE OF ANY CLAIM OF INFRINGEMENT OR THE LIKE WITH RESPECT TO, OR ANY OTHER MATTER CONCERNING, THE EQUIPMENT AND EXPRESSLY DISCLAIMS ANY SUCH WARRANTIES OR ANY OTHER WARRANTIES IMPLIED BY LAW. LESSEE HEREBY WAIVES ANY CLAIM IT MIGHT HAVE AGAINST LESSOR FOR ANY LOSS, DAMAGE OR EXPENSE CAUSED BY THE EQUIPMENT OR BY ANY DEFECT THEREIN, OR BY THE USE OR MAINTENANCE OF, OR SERVICING OR ADJUSTMENT TO, THE EQUIPMENT AND, AS TO LESSOR, LEASES THE EQUIPMENT AS-IS AND WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND. LESSOR WILL NOT BE LIABLE FOR ANY LOSS OR INTERRUPTION OF OR DAMAGE TO LESSEE'S BUSINESS ON ACCOUNT OF ANY MECHANICAL FAILURE OR DELAY IN CONNECTION WITH THE FURNISHING OR USE OF THE EQUIPMENT. Lessee acknowledges that Lessor is not a dealer or manufacturer of equipment of any kind and is not the seller of the Equipment, and that each unit of Equipment is of a type, size, design and capacity selected solely by Lessee. Lessee also acknowledges that Lessor supplies the Equipment without any obligation to install, test, erect, service or maintain the Equipment. If the Equipment is not properly installed, does not operate as represented or warranted by the manufacturer or seller thereof, or is unsatisfactory for any reason, Lessee shall make any claim on account thereof solely against the manufacturer or seller and no such occurrence shall relieve Lessee of any of its obligations under this Lease. The only warranty applicable to any Equipment is the manufacturer's warranty, if any (in the case of new Equipment) and Lessor makes no warranty to Lessee beyond that contained in the manufacturer's warranty, if any. Lessee acknowledges receipt of the manufacturer's warranty

with respect to any new Equipment. So long as Lessee is not in default under this Lease, Lessor assigns to Lessee any manufacturer's, seller's or other warranty, whether express or implied, on the Equipment and any claim that Lessor may have as owner of the Equipment against the manufacturer or supplier or any other person. All claims or actions on any warranty shall be made or prosecuted by Lessee, at its sole expense, and Lessor shall have no obligation whatsoever to make any claim on such warranty. Any recovery in cash or cash equivalents under such warranty shall be made payable jointly to Lessee and Lessor. At Lessor's option, all cash proceeds or cash equivalents from such warranty recovery may be used to repair or replace the Equipment. Lessee shall continue to pay rent to Lessor as specified in this Lease, notwithstanding any claim for breach of warranty.

9. INSPECTION AND ACCEPTANCE BY LESSEE.

Upon delivery of the Equipment, Lessee shall promptly make all necessary inspections and tests of the Equipment in order to determine whether the Equipment conforms to specifications and is in good condition and repair. Lessee shall promptly notify Lessor in writing of any defect or other objection to the type or condition of the Equipment. If Lessee fails to notify Lessor in writing of any defect in or objection to the Equipment within ten (10) days after delivery of the Equipment to Lessee, it shall conclusively be established, as between Lessor and Lessee, that Lessee has fully inspected the Equipment and that Lessee is satisfied with and has accepted the Equipment as in good condition and repair for all purposes of this Lease. If Lessee determines that the Equipment is in good condition and repair before the expiration of ten (10) days after the equipment is delivered, and in all events prior to placing the Equipment in service, Lessee shall execute and deliver to Lessor a certificate of acceptance in form satisfactory to Lessor. Lessee's acceptance of any Equipment with knowledge of a nonconformity cannot be revoked because of such nonconformity.

10. LOCATION AND RIGHT OF INSPECTION.

The Equipment shall be delivered to and, with the exception of motor vehicles, at all times shall be located at, the address of Lessee shown in this Lease, or at such other place as shall be mutually agreed upon in writing between Lessor and Lessee. Any motor vehicles included in the Equipment are leased principally for use in the United States, and will not be used outside of the United States and Canada. Lessor shall at any and all times during business hours have the right to enter into and upon the premises where the Equipment is located for the purpose of inspecting the Equipment or observing its use. Lessee shall not move any Equipment other than motor vehicles from the location to which said Equipment is delivered except with the prior written consent of Lessor. Lessee shall promptly advise Lessor of any circumstances with respect to location of the Equipment which may in any manner affect Lessor's title thereto.

11. USE.

The Equipment shall be kept by Lessee in its possession and control. Lessee shall use the Equipment with due care, and shall comply with all laws, ordinances or regulations applicable to the use, operation or maintenance of the Equipment and the requirements of any insurer. Lessee shall put the Equipment only to the use contemplated by the manufacturer. Lessee shall use any motor vehicles included in the Equipment only in the course of Lessee's own business, and shall permit any such vehicles to be operated only by Lessee's agents or employees or members of Lessee's immediate family who, in each case, are legally licensed to operate such vehicles. No driver of any motor vehicle included in the Equipment shall have authority to act on behalf of Lessor without prior written authorization from Lessor. If Lessor as owner of any motor vehicle included in the Equipment receives a notice of a parking or traffic violation which involves the payment of a fine or penalty, Lessor may (but is not required to) pay the fine or penalty. If Lessor does so, Lessee will immediately repay Lessor the amount of the fine or penalty and an additional \$10 handling and administration fee. If any Equipment is confiscated by any public authority, or if Lessor suffers any damage, because of Lessee's use of the Equipment for an illegal purpose, Lessee shall pay to Lessor the amount of any such damage and, in the case of confiscation, the Stipulated Loss Value determined in accordance with the relevant Schedule(s) and Lessor may, at its option, terminate this Lease.

12. ENVIRONMENTAL COMPLIANCE.

Lessee has obtained all permits, licenses and other authorizations pertaining to the Equipment and its property which are required under federal, state and local laws relating to pollution or protection of the environment, including laws relating to emissions, discharges, releases or threatened releases of pollutants, contaminants, hazardous or toxic materials or wastes into ambient air, surface water, ground water or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants or hazardous or toxic materials or wastes ("Environmental Laws"). Lessee is in full compliance with all terms and conditions of such required permits, licenses and authorizations and is also in full compliance with all other limitations, restrictions, conditions, standards, prohibitions, requirements, obligations, schedules and timetables contained in the Environmental Laws or contained in any plan, order, decree, judgment or notice. Lessee is further not aware of, nor has Lessee received notice of, any events, conditions, circumstances, activities, practices, incidents, actions or plans which may interfere with or prevent continued compliance or which may give rise to any liability under any Environmental Laws or the common law.

13. ALTERATIONS, REPAIRS AND MAINTENANCE.

Lessee will, at its own expense, keep and maintain the Equipment in good working order, supply and install all replacement parts and accessories when required to maintain the Equipment in good working order, which parts and accessories shall be and become the sole property of Lessor, and furnish all gasoline, oil, repairs, parts, tires, tubes, batteries, accessories, service, maintenance and all other items of a similar nature necessary for the operation of the Equipment. Lessee shall not, without the prior written consent of Lessor, make any alterations, modification, additions, subtractions or improvements to, or mark, the Equipment but if so authorized by Lessor, any such alterations, modifications, additions or improvements shall become the property of Lessor and shall be deemed to be a part of the Equipment. Lessee shall pay all costs required to repair all damage to, or alter, the Equipment or any accessories, or to make the Equipment conform to any federal, state or municipal requirements. Lessee shall follow any maintenance program required or recommended by the manufacturer of the Equipment to make sure that its warranty remains valid.

14. LICENSING, REGISTRATION AND TAXES.

If the Equipment or use of the Equipment requires licensing by or registration with any governmental authority, Lessee shall, at Lessee's expense, obtain and maintain such license or registration continuously during the term of this Lease. As additional rent, Lessee shall pay when due all federal, state or local license and registration fees, assessments, sales, use, heavy vehicle use, property and other taxes (excluding any tax measured by Lessor's net income), together with any penalties or interest applicable thereto, now or hereafter imposed by any governmental authority upon any item of the Equipment or the rent payable hereunder or by

default. Upon declaring this Lease to be in default, Lessor, in its sole discretion, may exercise any one or more of the following remedies:

- (a) terminate this Lease; or
- (b) declare immediately due and payable, without notice or demand to Lessee, the sum of (i) the accrued and unpaid rent payments for the period ending on the date of default; (ii) the present value of any and all rent payments for the period from the date of default through the scheduled expiration of this Lease; (iii) any other sums then payable under the Lease; or
- (c) cause Lessee, upon written demand of Lessor and at Lessee's expense, to return promptly any or all items of Equipment to Lessor in accordance with all of the terms of Section 18 hereof, or Lessor, at its option, may take possession of any or all items of Equipment without demand or notice wherever the same may be located without any court order or process of law and remove the same without liability for injuries suffered through or loss caused by such repossession, and such repossession shall not constitute termination of this Lease unless Lessor expressly terminates this Lease in writing, and Lessee waives any and all rights to notice and judicial hearing with respect to the repossession or attachment of the Equipment by Lessor in the event of default under this Lease by Lessee; or
- (d) sell or lease any or all items of Equipment at public or private sale or lease at such time or times as Lessor may determine and, if notice thereof is required by law, any notice in writing of any such sale or lease by Lessor to Lessee not less than ten (10) days prior to the date thereof shall constitute reasonable notice thereof to Lessee; or otherwise dispose of, hold, use, operate, or keep idle such Equipment, all as Lessor, in its sole discretion, may determine and all free and clear of any rights of Lessee and without any duty to account to Lessee for such action or inaction or for any proceeds with respect thereto; or
- (e) exercise any other right or remedy which may be available to Lessor under the Uniform Commercial Code or any other applicable law or proceed by appropriate court action to enforce the terms of this Lease, to recover possession of the Equipment, to recover damages for the breach of this Lease or to rescind this Lease as to any or all Equipment. Lessor may elect, whether before or after recovering possession of the Equipment, by written notice to Lessee, to cause Lessee to pay Lessor as liquidated damages for loss of a bargain and not as a penalty) and in lieu of all other sums due to Lessor for the remaining term of this Lease (except any indemnification obligation under Section 19 and 20) on the date specified in such notice, an amount equal to the rent payment or payments and other payments under the Lease that are due and payable as of the date of the written notice, plus a sum equal to the Stipulated Loss Value of the Equipment, determined as of the date of the written notice in accordance with the Schedules, reduced by any net proceeds of the disposition of the Equipment which were previously received by the Lessor. In the event Lessor collects the liquidated damages specified in the preceding sentence and has not previously sold or released the Equipment, Lessor shall appoint Lessee as Lessor's agent to dispose of the Equipment at the best price obtainable on an "AS IS-WHERE IS" basis and Lessee shall be entitled to the proceeds of such sale of the Equipment to the extent they do not exceed the Stipulated Loss Value and shall pay any excess to Lessor.

Lessee shall pay Lessor all costs and expenses, including attorneys' fees, incurred by Lessor in exercising any of its rights or remedies under this Lease or in enforcing any of the terms or conditions of this Lease. Lessee shall continue to be liable for all indemnities under this Lease and for all legal fees and other costs and expenses resulting from an Event of Default or the exercise of Lessor's remedies, including placing any Equipment in the condition required by Section 18 of this Lease, notwithstanding Lessor's exercise of any right or remedy under this Lease. Except as expressly provided above, no remedy is exclusive, but each shall be cumulative and in addition to any other remedy referred to above or otherwise available to Lessor at law or in equity. The repossession or subsequent sale or lease by Lessor of any item of Equipment shall not bar an action for a deficiency as herein provided and the bringing of any action or the entry of judgment against Lessee shall not bar Lessor's right to repossess any or all items of Equipment. No express or implied waiver by Lessor of any default shall constitute a waiver of any other default by Lessee or a waiver of any of Lessor's rights. To the extent permitted by applicable law, Lessee hereby waives any rights now or hereafter conferred by statute or otherwise which may require Lessor to sell, lease or otherwise use any Equipment in mitigation of Lessor's damages as set forth in this Section 22 or may otherwise limit or modify any of Lessor's rights or remedies under this Section 22. LESSEE AGREES THAT ANY ACTION BY LESSEE OR LESSOR CONCERNING THE LEASE SHALL BE VENUED IN THE COURTS OF THE STATE OF MINNESOTA, AND LESSEE HEREBY SUBMITS TO THE PERSONAL JURISDICTION OF THE COURTS OF MINNESOTA, BOTH FEDERAL AND STATE, IN ANY ACTION WITH RESPECT TO THIS LEASE AND AGREES THAT ANY STATE COURT ACTION SHALL BE VENUED IN THE DISTRICT COURT OF HENNEPIN COUNTY, MINNESOTA. LESSOR AND LESSEE EACH IRREVOCABLY WAIVES THE RIGHT TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS LEASE OR THE TRANSACTIONS CONTEMPLATED HEREBY.

LESSEE SHALL NOT ASSIGN, PLEDGE OR HYPOTHECATE THIS LEASE IN WHOLE OR IN PART, NOR ANY INTEREST IN THIS LEASE, NOR SHALL LESSEE SUBLET OR LEND ANY ITEM OF THE EQUIPMENT, NOR PLEDGE, MORTGAGE OR OTHERWISE ENCUMBER THE EQUIPMENT OR PERMIT IT TO BECOME ENCUMBERED, WITHOUT THE PRIOR WRITTEN CONSENT OF LESSOR. LESSEE'S INTEREST HEREIN MAY NOT BE ASSIGNED OR TRANSFERRED BY OPERATION OF THE LAW. Consent to any of the foregoing acts shall not be deemed to be consent to any subsequent similar act. Lessor may assign this Lease or mortgage the Equipment or both in whole or in part, without notice to Lessee. If Lessee is given notice of such assignment, it shall acknowledge receipt of that notice in writing. Each assignee or mortgagee from Lessor shall have all of the rights, but none of the obligations, of Lessor under this Lease. Lessee shall not assert against any assignee and/or mortgagee any defense, counterclaim or offset that Lessee may have against Lessor. Upon receipt from Lessor of written notice of assignment, Lessee will pay to the assignee any portion of the rent assigned to the assignee. Lessee's obligation to pay rent to the assignee shall be absolute and unconditional and shall not be subject to any defense or offset, and said obligations shall continue until Lessee receives a written notice from the assignee that all indebtedness secured by such assignment has been paid in full. Notwithstanding any assignment, Lessor warrants that Lessee shall quietly enjoy use of the Equipment, subject to the terms and conditions of this Lease. Subject to this Section 23, this Lease inures to the benefit of and is binding upon the heirs, legatees, personal representatives, successors and assigns of Lessor and Lessee.

23. ASSIGNMENT.

LESSEE SHALL NOT ASSIGN, PLEDGE OR HYPOTHECATE THIS LEASE IN WHOLE OR IN PART, NOR ANY INTEREST IN THIS LEASE, NOR SHALL LESSEE SUBLET OR LEND ANY ITEM OF THE EQUIPMENT, NOR PLEDGE, MORTGAGE OR OTHERWISE ENCUMBER THE EQUIPMENT OR PERMIT IT TO BECOME ENCUMBERED, WITHOUT THE PRIOR WRITTEN CONSENT OF LESSOR. LESSEE'S INTEREST HEREIN MAY NOT BE ASSIGNED OR TRANSFERRED BY OPERATION OF THE LAW. Consent to any of the foregoing acts shall not be deemed to be consent to any subsequent similar act. Lessor may assign this Lease or mortgage the Equipment or both in whole or in part, without notice to Lessee. If Lessee is given notice of such assignment, it shall acknowledge receipt of that notice in writing. Each assignee or mortgagee from Lessor shall have all of the rights, but none of the obligations, of Lessor under this Lease. Lessee shall not assert against any assignee and/or mortgagee any defense, counterclaim or offset that Lessee may have against Lessor. Upon receipt from Lessor of written notice of assignment, Lessee will pay to the assignee any portion of the rent assigned to the assignee. Lessee's obligation to pay rent to the assignee shall be absolute and unconditional and shall not be subject to any defense or offset, and said obligations shall continue until Lessee receives a written notice from the assignee that all indebtedness secured by such assignment has been paid in full. Notwithstanding any assignment, Lessor warrants that Lessee shall quietly enjoy use of the Equipment, subject to the terms and conditions of this Lease. Subject to this Section 23, this Lease inures to the benefit of and is binding upon the heirs, legatees, personal representatives, successors and assigns of Lessor and Lessee.

24. FEES AND EXPENSES.

Lessee shall pay all reasonable expenses of the Lessor incident to the transactions contemplated by this Lease or in connection with any modification, amendment, waiver, alteration or enforcement of this Lease, including, but not limited to, all filing fees and the fees

and expenses of Lessor's legal counsel. The obligations of Lessee under this Section 24 shall survive expiration of the term of this Lease.

25. NO OFFSET; IRREVOCABLE AND INDEPENDENT PROMISES.

Upon Lessee's acceptance of any Equipment, Lessee's promises to pay rent and perform all other obligations with respect to such Equipment shall become irrevocable and independent, and shall not be subject to cancellation, termination, modification, repudiation, excuse or substitution without the consent of Lessor or any assignee. Lessee hereby waives any and all existing and future claims and offsets against any rent or other payments due hereunder, and agrees to pay the rent and other amounts due hereunder regardless of any offset or claim which may be asserted by Lessee or on its behalf against Lessor or any other person. This is a net lease and rent due under this Lease shall not be subject to abatement for any reason whatsoever. Lessee hereby further acknowledges that the manufacturer or vendor of the Equipment and its agents and employees were at no time and are not now the agents or under the supervision of Lessor, and that Lessor was not and is not the agent of the manufacturer or vendor.

26. WAIVERS.

No waiver of Lessee's obligations, conditions or covenants shall be deemed to take place unless the waiver is in writing and signed by Lessor. Failure to exercise any remedy which Lessor may have under this Lease or any acquiescence in the default of Lessee by Lessor shall not constitute a waiver of any obligation of Lessee, including the obligation as to which Lessee is in default; and Lessor shall be entitled to pursue any remedy available to it under this Lease until Lessee has rendered complete performance of all obligations under this Lease.

27. FINANCIAL AND OTHER REPORTS.

During the term of this Lease, Lessee shall furnish Lessor with annual financial statements within one hundred twenty (120) days after the end of Lessee's fiscal year, and Lessee shall provide Lessor such other financial information as Lessor may from time to time request, including, without limitation, any reports filed with federal or state regulatory agencies. Lessee hereby warrants and represents that all financial statements previously delivered or to be delivered to Lessor by or on behalf of Lessee, and any statements and data submitted in writing to Lessor in connection with this Lease, are or will be true and correct and did or will fairly present the financial condition of Lessee for the periods involved.

28. MASTER LEASE.

In this event Lessor shall hereafter lease to Lessee additional Equipment, the Equipment shall be described on a Schedule executed by the parties which shall refer to this Lease. Each Schedule shall, in addition to describing the Equipment to be leased thereunder, set forth the term of the Lease with respect to that Equipment, the amount of rent, the manner of payment of the rent, the number of rent payments, the commencement of the rent payments, the amount of any security deposit and the stipulated loss value with respect to that Equipment, whether Lessee has the option, or shall be required, to purchase the Equipment and at what price, and may include other provisions. Each such Schedule when executed by the parties shall be deemed to be a part of this Lease, and all of the provisions of this Lease, except such provisions as may be explicitly amended by a Schedule, shall govern such Schedule or Schedules, it being understood and agreed that this Lease shall be the Master Lease.

29. NOTICES.

All communications under this Lease shall be in writing and shall be deemed to have been duly given (a) on the date of service if served personally on the party to whom notice is to be given, (b) on the day of transmission if sent by facsimile transmission to the teletype number given below, and telephonic confirmation of receipt is obtained promptly after completion of transmission, (c) on the day received after delivery to Federal Express or similar overnight courier, or (d) on the fifth day after it has been deposited in the United States mail, duly addressed and postage prepaid.

30. MISCELLANEOUS.

LESSEE ACKNOWLEDGES AND AGREES THAT THIS LEASE IS INTENDED AS A "FINANCE LEASE" AS DEFINED IN M.N.N. STATE. SECTION 336.2A-103(1)(G), AND THAT LESSOR IS ENTITLED TO ALL BENEFITS, PRIVILEGES AND PROTECTIONS OF A LESSOR UNDER A FINANCE LEASE. If more than one party executes this Lease as Lessee, all obligations to be performed by Lessee shall be the joint and several liability of all such parties. Wherever the context permits, Lessee's representations, warranties and covenants under this Lease shall survive the delivery and return of the equipment. Any provision of this Lease which may be determined by competent authority to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective, to the extent of such prohibition or unenforceability, without invalidating the remaining provisions of this Lease, and any such prohibition or unenforceability in any jurisdiction, be ineffective, to the extent of such prohibition or unenforceability, without invalidating the remaining provisions of this Lease, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, Lessee hereby waives any provision of law which renders any provision of this Lease prohibited or unenforceable in any respect. No term or provision of this Lease may be changed, waived, discharged, or terminated orally, but only by an instrument in writing signed by the party against which the enforcement of the change, waiver, discharge or termination is sought. This Lease contains the entire agreement between the parties and embodies any oral representations, negotiations or agreements made in connection herewith. The captions in this Lease are for convenience of reference only and shall not define or limit any of the terms of provisions hereof. As used in this Lease the term "Lease" shall include all exhibits and Schedules related to this Lease. THIS LEASE SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS (BUT NOT THE LAW OF CONFLICTS) OF THE STATE OF MINNESOTA, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE. Time is of the essence hereof. This Lease shall not become effective or binding until executed by Lessor at its place of business in Minneapolis, Minnesota. Lessee warrants and agrees that the Equipment is leased and will be used for business purposes only and that the Equipment will not be used for personal, family or household purposes.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease this

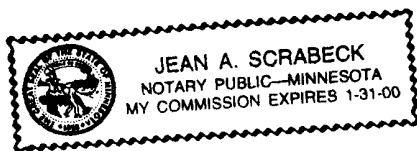
10th day of October, 1995

STATE OF MN

COUNTY OF MOWER

On this 10 day of October, 1995, before me personally came Richard Bentley to me known, who, being by me duly sworn, did depose and say that he is the Vice President of Hunting Elevator, a S.S. corporation, and he acknowledged to me that he executed the foregoing document on behalf of said corporation by order of its Board of Directors and that such document was the free act and deed of said corporation.

Witness my hand and official seal.



Jean A. Scrabeck
Notary Public in and for said State

My commission expires: Jan 31, 2000

STATE OF Minnesota

COUNTY OF Hennepin

On this 11th day of October, 1995, before me personally came Deborah J. Eckert to me known, who, being by me duly sworn, did depose and say that she is the Ass't Vice President of FBS Business Finance Corp., a Delaware corporation, and he acknowledged to me that he executed the foregoing document on behalf of said corporation by order of its Board of Directors and that such document was the free act and deed of said corporation.

Witness my hand and official seal.

Cheryl Van Brunt
Notary Public in and for said State

My commission expires: 1/31/2000





FBS Leasing

SCHEDULE TO LEASE AGREEMENT
(EQUIPMENT)
FBS BUSINESS FINANCE CORPORATION — Lessor
LEASING DIVISION
601 Second Avenue S. MPFP0904, Minneapolis, Minnesota 55402
FAX (612) 973-0833

LESSEE: **HUNTTING ELEVATOR COMPANY**

LESSEE NO: **1019421**

SCHEDULE NO. **001**

EQUIPMENT DESCRIPTION		
<u>QUANTITY</u>	<u>DESCRIPTION</u>	<u>SERIAL NUMBER</u>
(1)	SHUTTLE WAGON RAIL CAR MOVER	SGS41016

Lessor and Lessee agree that, with respect to all Equipment leased by Lessee pursuant to this Schedule No. 001, they will set forth their agreements relating to the amount and payment of rent and Stipulated Loss Values in a separate rent agreement dated as of 10-10-95 (the "Rent Agreement") entered into contemporaneously with this Schedule. Accordingly, Lessor and Lessee hereby agree that the following terms shall be as defined in the Rent Agreement and shall be deemed incorporated by reference in this Schedule with the same force and effect as if set forth in full herein: Total Cost of Equipment, Initial Term of Lease, Rent Payment Due Date, Total Number of Rent Payments and Stipulated Loss Values. In addition, Lessor and Lessee agree that and other terms and conditions set forth in the Rent Agreement shall be deemed to be incorporated herein by referenced with the same force and effect as if set forth in full herein.

Rent Payments shall commence upon Lessee's acceptance of the Equipment and shall be made on each Rent Payment Due Date thereafter until the Total Number of Rent Payments has been made.

Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the Equipment described above on the terms and conditions set forth above and pursuant to and subject to all terms and conditions of the Lease Agreement between Lessor and Lessee dated 10-10-95.

ACCEPTED

DATED AS OF: 10-10-95

FBS BUSINESS FINANCE CORPORATION

(LESSOR)

HUNTTING ELEVATOR COMPANY

(NAME OF LESSEE)

By Deborah J. Eckert

(Signature)

Title Assistant Vice President

By Richard Bentley

(Signature)

Title VP

And By _____

(Signature)

Title _____

And By _____

(Signature)

Title _____

STATE OF

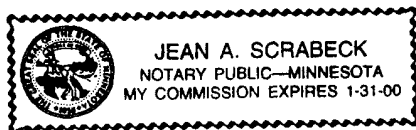
MN

COUNTY OF

Mower

On this 10th day of October, 1995, before me personally came Richard Bentley to me known, who, being by me duly sworn, did depose and say that he is the Vice President of Hunting & Lovato, a S.D. corporation, and he acknowledged to me that he executed the foregoing document on behalf of said corporation by order of its Board of Directors and that such document was the free act and deed of said corporation.

Witness my hand and official seal.



Jean A. Scrabeck
Notary Public in and for said State

My commission expires: Jan 31, 2000

STATE OF

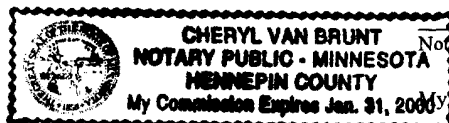
Minnesota

COUNTY OF

Hennepin

On this 11th day of October, 1995, before me personally came Deborah J. Eckert to me known, who, being by me duly sworn, did depose and say that she is the Asst Vice President of FBS Business Finance Corporation, a Delaware corporation, and he acknowledged to me that he executed the foregoing document on behalf of said corporation by order of its Board of Directors and that such document was the free act and deed of said corporation.

Witness my hand and official seal.



Cheryl Van Brunt
Notary Public in and for said State

My commission expires: 1/31/2000



FBS Leasing
Member First Bank System

LEASE AGREEMENT

For and in consideration of the mutual covenants and promises hereinafter set forth, FBS BUSINESS FINANCE CORPORATION ("Lessor") and the individual, company or other legal person identified on the signature page of this Lease as the Lessee ("Lessee") hereby agrees as follows:

1. LEASE.

Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, all machinery, equipment, motor vehicles and other property described in any schedule or schedules executed by the parties, concurrently herewith or hereafter, which schedules state they are subject to this Lease (collectively, the "Schedules"). All machinery, equipment, motor vehicles and other property described in any Schedule and all replacement parts, additions, repairs and accessories incorporated in, or attached or affixed to, any such property, is collectively referred to in this Lease as the "Equipment".

2. TERM OF LEASE.

This Lease shall commence on the date it is executed and, unless sooner terminated by Lessor as provided in Section 22, shall continue until the "Total Number of Rent Payments" shown on each Schedule shall have been made.

3. RENT.

As rent for the Equipment described on each Schedule, Lessee agrees to pay to Lessor the sum of (x) the rent payments shown under "Rent Payment" on that Schedule, multiplied by the "Total Number of Rent Payments" shown on that Schedule, plus (y) any additional rent specified on that Schedule, plus (z) "Stub Rent" amounts payable with respect to the period between the date of any payment by Lessor to the vendor of the Equipment and the first Rent Payment Due Date shown on that Schedule. Payments are to be made on each and every Rent Payment Due Date shown on the Schedule until the Total Number of Rent Payments have been made. The first rent payment with respect to each Schedule is due upon (i) Lessee's execution of a delivery receipt, if the Equipment described in that Schedule is motor vehicles, or (ii), upon Lessee's acceptance (as described in Section 9) of any Equipment other than motor vehicles described in that Schedule. Rent shall be paid on the dates specified in the Schedule at the office of Lessor or to such other person or at such other place as Lessor may from time to time designate in writing. In addition to the rent payments described above, Lessee shall pay the amount of any personal property taxes or other taxes and all maintenance, insurance and other costs and expenses with respect to the Equipment (including amounts, if any, required to be paid under Sections 14 and 15 of this Lease). The payments described in the previous sentence shall be paid when due to the person entitled to those payments. If Lessee fails to make any such payment or pay any other expense required to be paid by Lessee pursuant to this Lease, Lessor, at its option, may pay such expense, which shall constitute additional rent and be due and payable from Lessee to Lessor upon demand therefor.

4. LATE CHARGE.

If Lessor does not receive any rent or any other sum required to be paid to Lessor within ten (10) days after its due date, Lessee shall pay to Lessor a late charge of five percent (5%) of such late payment.

5. ESTIMATED COST.

The rent payments specified in each Schedule have been computed on the basis of the total cost of the Equipment to Lessor, as estimated at the time that Schedule is executed. Total cost includes the cost to Lessor of purchasing and delivering the Equipment to Lessee, transportation, installation, and all other charges with respect to the Equipment. Lessee hereby authorizes Lessor to correct the rent payments to reflect any difference between the actual cost of the Equipment and the estimated cost.

6. SECURITY DEPOSIT.

Lessee has deposited or will deposit with Lessor the sum shown as "Security Deposit", if any, on each Schedule as a security deposit and not as advance rent. Lessor may, at its option, apply any security deposit to cure any default under this lease by Lessee, in which event Lessee shall promptly pay a sufficient amount to Lessor to restore the security deposit to the full amount specified in the Schedule. Upon termination of this Lease, Lessor shall return any remaining balance of the security deposit(s), if any, to Lessee if and only if Lessee has fulfilled all of its obligations under this Lease.

7. SELECTION OF EQUIPMENT AND SUPPLIER.

Lessee has selected the Equipment and the supplier of the Equipment. Lessor agrees to order the Equipment from the supplier in accordance with Lessor's customary practices, and Lessor shall not be obligated to lease the Equipment to Lessee unless the supplier fills the order. Lessor shall have no liability because of any delay by the supplier in filling the order. Lessee will accept the Equipment if delivered in good repair and authorizes Lessor to add to the Schedules any serial numbers or other identification of the Equipment when known. Any delay in the delivery of the Equipment will not affect the validity of this Lease.

8. WARRANTIES.

LESSOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO THE CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF, THE ABSENCE OF ANY CLAIM OF INFRINGEMENT OR THE LIKE WITH RESPECT TO, OR ANY OTHER MATTER CONCERNING, THE EQUIPMENT AND EXPRESSLY DISCLAIMS ANY SUCH WARRANTIES OR ANY OTHER WARRANTIES IMPLIED BY LAW. LESSEE HEREBY WAIVES ANY CLAIM IT MIGHT HAVE AGAINST LESSOR FOR ANY LOSS, DAMAGE OR EXPENSE CAUSED BY THE EQUIPMENT OR BY ANY DEFECT THEREIN, OR BY THE USE OR MAINTENANCE OF, OR SERVING OR ADJUSTMENT TO, THE EQUIPMENT AND, AS TO LESSOR, LEASES THE EQUIPMENT AS-IS AND WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND. LESSOR WILL NOT BE LIABLE FOR ANY LOSS OR INTERRUPTION OF OR DAMAGE TO LESSEE'S BUSINESS ON ACCOUNT OF ANY MECHANICAL FAILURE OR DELAY IN CONNECTION WITH THE FURNISHING OR USE OF THE EQUIPMENT. Lessee acknowledges that Lessor is not a dealer or manufacturer of equipment of any kind and is not the seller of the Equipment, and that each unit of Equipment is of a type, size, design and capacity selected solely by Lessee. Lessee also acknowledges that Lessor supplies the Equipment without any obligation to install, test, erect, service or maintain the Equipment. If the Equipment is not properly installed, does not operate as represented or warranted by the manufacturer or seller thereof, or is unsatisfactory for any reason, Lessee shall make any claim on account thereof solely against the manufacturer or seller and no such occurrence shall relieve Lessee of any of its obligations under this Lease. The only warranty applicable to any Equipment is the manufacturer's warranty, if any (in the case of new Equipment) and Lessor makes no warranty to Lessee beyond that contained in the manufacturer's warranty, if any. Lessee acknowledges receipt of the manufacturer's warranty

with respect to any new Equipment. So long as Lessee is not in default under this Lease, Lessor assigns to Lessee any manufacturer's, seller's or other warranty, whether express or implied, on the Equipment and any claim that Lessor may have as owner of the Equipment against the manufacturer or supplier or any other person. All claims or actions on any warranty shall be made or prosecuted by Lessee, at its sole expense, and Lessor shall have no obligation whatsoever to make any claim on such warranty. Any recovery in cash or cash equivalents under such warranty shall be made payable jointly to Lessee and Lessor. At Lessor's option, all cash proceeds or cash equivalents from such warranty recovery may be used to repair or replace the Equipment. Lessee shall continue to pay rent to Lessor as specified in this Lease, notwithstanding any claim for breach of warranty.

9. INSPECTION AND ACCEPTANCE BY LESSEE.

Upon delivery of the Equipment, Lessee shall promptly make all necessary inspections and tests of the Equipment in order to determine whether the Equipment conforms to specifications and is in good condition and repair. Lessee shall promptly notify Lessor in writing of any defect or other objection to the type or condition of the Equipment. If Lessee fails to notify Lessor in writing of any defect in or objection to the Equipment within ten (10) days after delivery of the Equipment to Lessee, it shall conclusively be established, as between Lessor and Lessee, that Lessee has fully inspected the Equipment and that Lessee is satisfied with and has accepted the Equipment as in good condition and repair for all purposes of this Lease. If Lessee determines that the Equipment is in good condition and repair before the expiration of ten (10) days after the equipment is delivered, and in all events prior to placing the Equipment in service, Lessee shall execute and deliver to Lessor a certificate of acceptance in form satisfactory to Lessor. Lessee's acceptance of any Equipment with knowledge of a nonconformity cannot be revoked because of such nonconformity.

10. LOCATION AND RIGHT OF INSPECTION.

The Equipment shall be delivered to and, with the exception of motor vehicles, at all times shall be located at, the address of Lessee shown in this Lease, or at such other place as shall be mutually agreed upon in writing between Lessor and Lessee. Any motor vehicles included in the Equipment are leased principally for use in the United States, and will not be used outside of the United States and Canada. Lessor shall at any and all times during business hours have the right to enter into and upon the premises where the Equipment is located for the purpose of inspecting the Equipment or observing its use. Lessee shall not move any Equipment other than motor vehicles from the location to which said Equipment is delivered except with the prior written consent of Lessor. Lessee shall promptly advise Lessor of any circumstances with respect to location of the Equipment which may in any manner affect Lessor's title thereto.

11. USE.

The Equipment shall be kept by Lessee in its possession and control. Lessee shall use the Equipment with due care, and shall comply with all laws, ordinances or regulations applicable to the use, operation or maintenance of the Equipment and the requirements of any insurer. Lessee shall put the Equipment only to the use contemplated by the manufacturer. Lessee shall use any motor vehicles included in the Equipment only in the course of Lessee's own business, and shall permit any such vehicles to be operated only by Lessee's agents or employees or members of Lessee's immediate family who in each case, are legally licensed to operate such vehicles. No driver of any motor vehicle included in the Equipment shall have authority to act on behalf of Lessor without prior written authorization from Lessor. If Lessor as owner of any motor vehicle included in the Equipment receives a notice of a parking or traffic violation which involves the payment of a fine or penalty, Lessor may (but is not required to) pay the fine or penalty. If Lessor does so, Lessee will immediately repay Lessor the amount of the fine or penalty and an additional \$10 handling and administration fee. If any Equipment is confiscated by any public authority, or if Lessor suffers any damage, because of Lessee's use of the Equipment for an illegal purpose, Lessee shall pay to Lessor the amount of any such damage and, in the case of confiscation, the Stipulated Loss Value determined in accordance with the relevant Schedule(s) and Lessor may, at its option, terminate this Lease.

12. ENVIRONMENTAL COMPLIANCE.

Lessee has obtained all permits, licenses and other authorizations pertaining to the Equipment and its property which are required under federal, state and local laws relating to pollution or protection of the environment, including laws relating to emissions, discharges, releases or threatened releases of pollutants, contaminants, hazardous or toxic materials or wastes into ambient air, surface water, ground water or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants or hazardous or toxic materials or wastes ("Environmental Laws"). Lessee is in full compliance with all terms and conditions of such required permits, licenses and authorizations and is also in full compliance with all other limitations, restrictions, conditions, standards, prohibitions, requirements, obligations, schedules and timetables contained in the Environmental Laws or contained in any plan, order, decree, judgment or notice. Lessee is further not aware of, nor has Lessee received notice of, any events, conditions, circumstances, activities, practices, incidents, actions or plans which may interfere with or prevent continued compliance or which may give rise to any liability under any Environmental Laws or the common law.

13. ALTERATIONS, REPAIRS AND MAINTENANCE.

Lessee will, at its own expense, keep and maintain the Equipment in good working order, supply and install all replacement parts and accessories when required to maintain the Equipment in good working order, which parts and accessories shall be and become the sole property of Lessor, and furnish all gasoline, oil, repairs, parts, tires, tubes, batteries, accessories, service, maintenance and all other items of a similar nature necessary for the operation of the Equipment. Lessee shall not, without the prior written consent of Lessor, make any alterations, modification, additions, subtractions or improvements to, or mark, the Equipment but if so authorized by Lessor, any such alterations, modifications, additions or improvements shall become the property of Lessor and shall be deemed to be a part of the Equipment. Lessee shall pay all costs required to repair all damage to, or alter, the Equipment or any accessories, or to make the Equipment conform to any federal, state or municipal requirements. Lessee shall follow any maintenance program required or recommended by the manufacturer of the Equipment to make sure that its warranty remains valid.

14. LICENSING, REGISTRATION AND TAXES.

If the Equipment or use of the Equipment requires licensing by or registration with any governmental authority, Lessee shall, at Lessee's expense, obtain and maintain such license or registration continuously during the term of this Lease. As additional rent, Lessee shall pay when due all federal, state or local license and registration fees, assessments, sales, use, heavy vehicle use, property and other taxes (excluding any tax measured by Lessor's net income), together with any penalties or interest applicable thereto, now or hereafter imposed by any governmental authority upon any item of the Equipment or the rent payable hereunder or by

default." Upon declaring this Lease to be in default, Lessor, in its sole discretion, may exercise any one or more of the following remedies:

- (a) terminate this Lease; or
- (b) declare immediately due and payable, without notice or demand to Lessee, the sum of (i) the accrued and unpaid rent payments for the period ending on the date of default; (ii) the present value of any and all rent payments for the period from the date of default through the scheduled expiration of this Lease; (iii) any other sums then payable under the Lease; or
- (c) cause Lessee, upon written demand of Lessor and at Lessee's expense, to return promptly any or all items of Equipment to Lessor in accordance with all of the terms of Section 18 hereof, or Lessor, at its option, may take possession of any or all items of Equipment without demand or notice wherever the same may be located without any court order or process of law and remove the same without liability for injuries suffered through or loss caused by such repossession, and such repossession shall not constitute termination of this Lease unless Lessor expressly terminates this Lease in writing, and Lessee waives any and all rights to notice and judicial hearing with respect to the repossession or attachment of the Equipment by Lessor in the event of default under this Lease by Lessee; or
- (d) sell or lease any or all items of Equipment at public or private sale or lease at such time or times as Lessor may determine and, if notice thereof is required by law, any notice in writing of any such sale or lease by Lessor to Lessee not less than ten (10) days prior to the date thereof shall constitute reasonable notice thereof to Lessee; or otherwise disposes of, hold, use, operate, or keep idle such Equipment, all as Lessor, in its sole discretion, may determine and all free and clear of any rights of Lessee and without any duty to account to Lessee for such action or inaction or for any proceeds with respect thereto; or
- (e) exercise any other right or remedy which may be available to Lessor under the Uniform Commercial Code or any other applicable law or proceed by appropriate court action to enforce the terms of this Lease, to recover possession of the Equipment, to recover damages for the breach of this Lease or to rescind this Lease as to any or all Equipment. Lessor may elect, whether before or after recovering possession of the Equipment, by written notice to Lessee, to cause Lessee to pay Lessor as liquidated damages for loss of a bargain and not as a penalty) and in lieu of all other sums due to Lessor for the remaining term of this Lease (except any indemnification obligation under Section 19 and 20) on the date specified in such notice, an amount equal to the rent payment or payments and other payments under the Lease that are due and payable as of the date of the written notice, plus a sum equal to the Stipulated Loss Value of the Equipment, determined as of the date of the written notice in accordance with the Schedules, reduced by any net proceeds of the disposition of the Equipment which were previously received by the Lessor. In the event Lessor collects the liquidated damages specified in the preceding sentence and has not previously sold or released the Equipment, Lessor shall appoint Lessee as Lessor's agent to dispose of the Equipment at the best price obtainable on an "AS IS-WHERE IS" basis and Lessee shall be entitled to the proceeds of such sale of the Equipment to the extent they do not exceed the Stipulated Loss Value and shall pay any excess to Lessor.

Lessee shall pay Lessor all costs and expenses, including attorneys' fees, incurred by Lessor in exercising any of its rights or remedies under this Lease or in enforcing any of the terms or conditions of this Lease. Lessee shall continue to be liable for all indemnities under this Lease and for all legal fees and other costs and expenses resulting from an Event of Default or the exercise of Lessor's remedies, including placing any Equipment in the condition required by Section 18 of this Lease, notwithstanding Lessor's exercise of any right or remedy under this Lease. Except as expressly provided above, no remedy is exclusive, but each shall be cumulative and in addition to any other remedy referred to above or otherwise available to Lessor at law or in equity. The repossession or subsequent sale or lease by Lessor of any item of Equipment shall not bar an action for a deficiency as herein provided and the bringing of any action or the entry of judgment against Lessee shall not bar Lessor's right to repossess any or all items of Equipment. No express or implied waiver by Lessor of any default shall constitute a waiver of any other default by Lessee or a waiver of any of Lessor's rights. To the extent permitted by applicable law, Lessee hereby waives any rights now or hereafter conferred by statute or otherwise which may require Lessor to sell, lease or otherwise use any Equipment in mitigation of Lessor's damages as set forth in this Section 22 or may otherwise limit or modify any of Lessor's rights or remedies under this Section 22. LESSEE AGREES THAT ANY ACTION BY LESSEE OR LESSOR CONCERNING THE LEASE SHALL BE VENUED IN THE COURTS OF THE STATE OF MINNESOTA, AND LESSEE HEREBY SUBMITS TO THE PERSONAL JURISDICTION OF THE COURTS OF MINNESOTA, BOTH FEDERAL AND STATE, IN ANY ACTION WITH RESPECT TO THIS LEASE AND AGREES THAT ANY STATE COURT ACTION SHALL BE VENUED IN THE DISTRICT COURT OF HENNEPIN COUNTY, MINNESOTA. LESSOR AND LESSEE EACH IRREVOCABLY WAIVES THE RIGHT TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS LEASE OR THE TRANSACTIONS CONTEMPLATED HEREBY.

23. ASSIGNMENT.

LESSEE SHALL NOT ASSIGN, PLEDGE OR HYPOTHECATE THIS LEASE IN WHOLE OR IN PART, NOR ANY INTEREST IN THIS LEASE, NOR SHALL LESSEE SUBLET OR LEND ANY ITEM OF THE EQUIPMENT, NOR PLEDGE, MORTGAGE OR OTHERWISE ENCUMBER THE EQUIPMENT OR PERMIT IT TO BECOME ENCUMBERED, WITHOUT THE PRIOR WRITTEN CONSENT OF LESSOR. LESSEE'S INTEREST HEREIN MAY NOT BE ASSIGNED OR TRANSFERRED BY OPERATION OF THE LAW. Consent to any of the foregoing acts shall not be deemed to be consent to any subsequent similar act. Lessor may assign this Lease or mortgage the Equipment or both in whole or in part, without notice to Lessee. If Lessee is given notice of such assignment, it shall acknowledge receipt of that notice in writing. Each assignee or mortgagee from Lessor shall have all of the rights, but none of the obligations, of Lessor under this Lease. Lessee shall not assert against any assignee and/or mortgagee any defense, counterclaim or offset that Lessee may have against Lessor. Upon receipt from Lessor of written notice of assignment, Lessee will pay to the assignee any portion of the rent assigned to the assignee. Lessee's obligation to pay rent to the assignee shall be absolute and unconditional and shall not be subject to any defense or offset, and said obligations shall continue until Lessee receives a written notice from the assignee that all indebtedness secured by such assignment has been paid in full. Notwithstanding any assignment, Lessor warrants that Lessee shall quietly enjoy use of the Equipment, subject to the terms and conditions of this Lease. Subject to this Section 23, this Lease inures to the benefit of and is binding upon the heirs, legatees, personal representatives, successors and assigns of Lessor and Lessee.

24. FEES AND EXPENSES.

Lessee shall pay all reasonable expenses of the Lessor incident to the transactions contemplated by this Lease or in connection with any modification, amendment, waiver, alteration or enforcement of this Lease, including, but not limited to, all filing fees and the fees

and expenses of Lessor's legal counsel. The obligations of Lessee under this Section 24 shall survive expiration of the term of this Lease.

25. NO OFFSET; IRREVOCABLE AND INDEPENDENT PROMISES.

Upon Lessee's acceptance of any Equipment, Lessee's promises to pay rent and perform all other obligations with respect to such Equipment shall become irrevocable and independent, and shall not be subject to cancellation, termination, modification, repudiation, excuse or substitution without the consent of Lessor or any assignee. Lessee hereby waives any and all existing and future claims and offsets against any rent or other payments due hereunder, and agrees to pay the rent and other amounts due hereunder regardless of any offset or claim which may be asserted by Lessee or on its behalf against Lessor or any other person. This is a net lease and rent due under this Lease shall not be subject to abatement for any reason whatsoever. Lessee hereby further acknowledges that the manufacturer or vendor of the Equipment and its agents and employees were at no time and are not now the agents or under the supervision of Lessor, and that Lessor was not and is not the agent of the manufacturer or vendor.

26. WAIVERS.

No waiver of Lessee's obligations, conditions or covenants shall be deemed to take place unless the waiver is in writing and signed by Lessor. Failure to exercise any remedy which Lessor may have under this Lease or any acquiescence in the default of Lessee by Lessor shall not constitute a waiver of any obligation of Lessee, including the obligation as to which Lessee is in default; and Lessor shall be entitled to pursue any remedy available to it under this Lease until Lessee has rendered complete performance of all obligations under this Lease.

27. FINANCIAL AND OTHER REPORTS.

During the term of this Lease, Lessee shall furnish Lessor with annual financial statements within one hundred twenty (120) days after the end of Lessee's fiscal year, and Lessee shall provide Lessor such other financial information as Lessor may from time to time request, including, without limitation, any reports filed with federal or state regulatory agencies. Lessee hereby warrants and represents that all financial statements previously delivered or to be delivered to Lessor by or on behalf of Lessee, and any statements and data submitted in writing to Lessor in connection with this Lease, are or will be true and correct and did or will fairly present the financial condition of Lessee for the periods involved.

28. MASTER LEASE.

In this event Lessor shall hereafter lease to Lessee additional Equipment, the Equipment shall be described on a Schedule executed by the parties which shall refer to this Lease. Each Schedule shall, in addition to describing the Equipment to be leased thereunder, set forth the term of the Lease with respect to that Equipment, the amount of rent, the manner of payment of the rent, the number of rent payments, the commencement of the rent payments, the amount of any security deposit and the stipulated loss value with respect to that Equipment, whether Lessee has the option, or shall be required, to purchase the Equipment and at what price, and may include other provisions. Each such Schedule when executed by the parties shall be deemed to be a part of this Lease, and all of the provisions of this Lease, except such provisions as may be explicitly amended by a Schedule, shall govern such Schedule or Schedules, it being understood and agreed that this Lease shall be the Master Lease.

29. NOTICES.

All communications under this Lease shall be in writing and shall be deemed to have been duly given (a) on the date of service if served personally on the party to whom notice is to be given, (b) on the day of transmission if sent by facsimile transmission to the teletype number given below, and telephonic confirmation of receipt is obtained promptly after completion of transmission, (c) on the day received after delivery to Federal Express or similar overnight courier, or (d) on the fifth day after it has been deposited in the United States mail, duly addressed and postage prepaid.

30. MISCELLANEOUS.

LESSEE ACKNOWLEDGES AND AGREES THAT THIS LEASE IS INTENDED AS A "FINANCE LEASE" AS DEFINED IN MINN. STATE. SECTION 336.2A-103(1)(G), AND THAT LESSOR IS ENTITLED TO ALL BENEFITS, PRIVILEGES AND PROTECTIONS OF A LESSOR UNDER A FINANCE LEASE. If more than one party executes this Lease as Lessee, all obligations to be performed by Lessee shall be the joint and several liability of all such parties. Wherever the context permits, Lessee's representations, warranties and covenants under this Lease shall survive the delivery and return of the equipment. Any provision of this Lease which may be determined by competent authority to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective, to the extent of such prohibition or unenforceability, without invalidating the remaining provisions of this Lease, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, Lessee hereby waives any provision of law which renders any provision of this Lease prohibited or unenforceable in any respect. No term or provision of this Lease may be changed, waived, discharged, or terminated orally, but only by an instrument in writing signed by the party against which the enforcement of the change, waiver, discharge or termination is sought. This Lease contains the entire agreement between the parties and embodies any oral representations, negotiations or agreements made in connection herewith. The captions in this Lease are for convenience of reference only and shall not define or limit any of the terms of provisions hereof. As used in this Lease the term "Lease" shall include all exhibits and Schedules related to this Lease. THIS LEASE SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS (BUT NOT THE LAW OF CONFLICTS) OF THE STATE OF MINNESOTA, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE. Time is of the essence hereof. This Lease shall not become effective or binding until executed by Lessor at its place of business in Minneapolis, Minnesota. Lessee warrants and agrees that the Equipment is leased and will be used for business purposes only and that the Equipment will not be used for personal, family or household purposes.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease this

10th day of October, 19 95